Proposed Text of

California Code of Regulations, Title 18, Section 1685.5

<u>**Section 1685.5. Calculation of Estimated Use Tax - Use Tax Table.**</u>

<u>(a) In General.</u>

<u>The Board of Equalization (BOE) is required to annually calculate the estimated amount of use tax due according to a person's adjusted gross income (AGI) and make such amounts available to the Franchise Tax Board (FTB), by July 30 of each year, in the form of a use tax table for inclusion in the instructions to the FTB's returns.</u>

<u>(b) Definitions and Data Sources.</u>

  <u>(1) AGI Ranges. The use tax table shall be separated into eight (8) AGI ranges as follows:</u>

   <u>(A) AGI less than $20,000;</u>

   <u>(B) AGI of $20,000 to $39,999;</u>

   <u>(C) AGI of $40,000 to $59,999;</u>

   <u>(D) AGI of $60,000 to $79,999;</u>

   <u>(E) AGI of $80,000 to $99,999;</u>

   <u>(F) AGI of $100,000 to $149,999;</u>

   <u>(G) AGI of $150,000 to $199,999;</u>

   <u>(H) AGI more than $199,999.</u>

  <u>(2) Use Tax Liability Factor or Use Tax Table Percentage. For the 2011 calendar year the use tax liability factor or use tax table percentage shall be 0.070 percent (.0007). On May 1, 2012, and each May 1 thereafter, the BOE shall calculate the use tax liability factor or use tax table percentage for the current calendar year by multiplying the percentage of income spent on electronic and mail order purchases for the proceeding calendar year by 0.37, multiplying the product by the average state, local, and district sales and use tax rate, and then rounding the result to the nearest thousandth of a percent.</u>

  <u>(3) Total Personal Income. Total personal income shall be determined by reference to the most current personal income data published by the United States Bureau of Economic Analysis.</u>

(4) Total Spending at Electronic Shopping and Mail Order Houses. Total spending at electronic shopping and mail order houses shall be determined by reference to the most current electronic shopping and mail order house spending data published by the United States Census Bureau.

(5) Percentage of Income Spent on Electronic and Mail Order Purchases. The percentage of income spent on electronic and mail order purchases during a calendar year shall be calculated by dividing the total spending at electronic shopping and mail order houses for that year by the total personal income for that year, multiplying the result by 100, and rounding the result to the nearest tenth of a percent.

(6) Average State, Local, and District Sales and Use Tax Rate. The average state, local, and district sales and use tax rate for a calendar year shall be the total of:

   (A) The rates of the statewide sales and use taxes imposed under section 35 of article XIII of the California Constitution and the Sales and Use Tax Law (Rev. & Tax. Code, § 6001 et seq.) in effect on January 1 of that year;

   (B) The statewide rate of local tax imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law (Rev. & Tax. Code, § 7200 et seq.) in effect on January 1 of that year; and

   (C) The weighted average rate of the district taxes imposed under the Transactions and Use Tax Law (Rev. & Tax Code, § 7251 et seq.) in effect in the various jurisdictions throughout the state on January 1 of that year after taking into account the proportion of the total statewide taxable transactions (by dollar) reported for each jurisdiction during the fourth quarter of the calendar year that is two years prior to the calendar year for which the calculation is made. For example, the total reported taxable transactions (by dollar) for the fourth quarter of 2010 shall be used to determine the weighted average rate of the district tax rates in effect on January 1, 2012, to calculate the weighted average rate of district taxes for calendar year 2012.

(c) Calculation of the Estimated Use Tax Liability.

   (1) The estimated use tax liability for the AGI range described in subdivision (b)(1)(A) shall be determined by multiplying $10,000 by the use tax liability factor or use tax table percentage and then rounding the result to the nearest whole dollar.

   (2) The estimated use tax liability for the AGI ranges described in subdivision (b)(1)(B) through (G) shall be determined by multiplying the midpoint of each AGI range by the use tax liability factor or use tax table percentage and then rounding the result to the nearest whole dollar.

(3) The estimated use tax liability for the AGI range described in subdivision (b)(1)(H) shall be determined by multiplying each range member's actual AGI by the use tax liability factor or use tax table percentage and then rounding the result to the nearest whole dollar.

(d) Use Tax Table Format.

(1) The use tax table for calendar year 2011 shall provide as follows:

Adjusted Gross Income (AGI) Range			Use Tax Liability
Less Than $20,000			$7
$20,000	to	$39,999	$21
$40,000	to	$59,999	$35
$60,000	to	$79,999	$49
$80,000	to	$99,999	$63
$100,000	to	$149,999	$88
$150,000	to	$199,999	$123
More than $199,999 -Multiply AGI by 0.070% (.0007)			

(2) The use tax tables for calendar year 2012 and subsequent years shall utilize the same format as the use tax table for calendar year 2011.

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Section 6452.1, Revenue and Taxation Code.